

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

FIDELIS I OMEGBU,

Plaintiff,

Case No. 21-cv-0786-bhl

v.

COREY L GREEN, et al.,

Defendants.

ORDER

On June 24, 2021, *pro se* plaintiff Fidelis I. Omegbu filed a complaint and a motion for leave to proceed without prepayment of the filing fee. (ECF No. 1.) On July 27, 2021, the Court dismissed Omegbu's complaint for failure to state a claim and denied his motion to proceed *in forma pauperis*, but granted him leave to file an amended complaint and an amended motion. (ECF No. 4.) On August 12, 2021, Omegbu timely filed an amended complaint and second motion for leave to proceed without prepayment of the filing fee. (ECF Nos. 5, 6.)

The Court has authority to allow a litigant to proceed without prepaying the filing fee if the Court determines that the litigant is unable to pay the costs of commencing the action and the action is not frivolous, fails to state a claim, or is brought against an immune defendant. *Cf.* 28 U.S.C. §1915(a)(1), (e)(2). As for his indigency, Omegbu's motion indicates that he is unemployed and unmarried. (ECF No. 6 at 1.) He further states that he receives approximately \$1,600 in monthly income and has total monthly expenses of approximately \$1,656. (*Id.* at 2-3.) Omegbu also claims he does not own a vehicle and has \$3.25 in a checking account. (*Id.* at 3.) Upon review of his second request, it appears that Omegbu is sufficiently indigent for a fee waiver.

The Court must also review Omegbu's amended complaint for sufficiency. Under Fed. R. Civ. P. 8(a)(2), a complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." The complaint must be at least sufficient to provide notice to each defendant of what he or she is accused of doing, as well as when and where the alleged actions or inactions occurred, and the nature and extent of any damage or injury the actions or inactions caused.

Omegbu's allegations again do not state a plausible claim for relief and fail to confirm this Court's jurisdiction. His claims seem to arise from a car accident and his attempt to sue for relief in a state-court personal injury action. He names as defendants the other driver in the crash and that driver's insurance company, the responding police officer, and the law firm representing him in the state-court action. However, Omegbu does not state clearly which claims he purports to bring against each defendant. He seeks relief in the form of injunctions against the law firm from using his alleged trade secrets and compensatory damages for unstated injuries. Even reading his allegations generously, the Court is unable to discern any plausible basis for asserting legal claims in federal court. Accordingly, Omegbu's amended complaint will be dismissed.

The Court will allow Omegbu the opportunity to file a second amended complaint, clarifying his allegations and describing plausible legal claims. If he decides to proceed with a second amended complaint, Omegbu should only name as defendants those specific individuals or entities that directly violated his rights. He should explain how each named defendant violated his rights and describe the injuries he suffered due to those violations. He should also include a statement specifically explaining why this Court has jurisdiction over his claims. Omegbu is advised that his second amended complaint must include the docket number assigned to this case and must be labeled "Second Amended Complaint." The second amended complaint will supersede the prior complaint and must be complete in itself without reference to the original complaint. *See Duda v. Bd. of Educ. of Franklin Park Pub. Sch. Dist. No. 84*, 133 F.3d 1054, 1056-57 (7th Cir. 1998).

IT IS HEREBY ORDERED that Omegbu's second motion for leave to proceed without prepayment of the filing fee, ECF No. 6, is **GRANTED**.

IT IS FURTHER ORDERED that Omegbu's amended complaint, ECF No. 5, is **DISMISSED without prejudice**. Omegbu may file a second amended complaint on or before **September 3, 2021**. Should he fail to do so, this action will be dismissed under Civil L. R. 41(c) for his failure to prosecute.

Dated at Milwaukee, Wisconsin on August 13, 2021.

s/ Brett H. Ludwig
BRETT H. LUDWIG
United States District Judge